

Lessor Federal ID #

OFFICE LEASE

between

and

THE STATE OF MAINE
Department of Administrative & Financial Services
Bureau of General Services
on behalf of the
Department of [INSERT]

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Summary of Exhibits

<u>Item</u>	<u>Exhibit</u>
Memorandum of Lease	
Commencement Notice	
Covenants of Lessor: Environmental Requirements	
Parcel of Land Description	
Site Plan, Building Plans & Specifications (including the State's Finish Spec.'s)	
Custodial Specifications	
Telecommunication Specifications	
Description of Operational Maintenance	

This Office Lease is made and entered into this _____ day of _____, 2000 by and between _____ whose address is _____ for themselves, their heirs, executors, administrators, successors and assigns (hereinafter called the “Lessor”) and the State of Maine, Department of Administrative & Financial Services, Bureau of General Services, whose address is 77 State House Station, Augusta, Maine 04333 on behalf of the Department of _____, (hereinafter called the “Department”),

1. **LEASED PREMISES:** The Lessor does hereby lease, demise and let to the Department the following premises:

- (a) The parcel of land in [INSERT], Maine, described in **Exhibit** [INSERT] and depicted in **Exhibit** [INSERT] (the “Land”);
- (b) A commercial office building to be constructed or rehabilitated on the Land by Lessor at Lessor’s expense in accordance with the site plan, building plans and specifications identified in **Exhibit** [INSERT], which commercial office building (the “Building”), located at [insert address], shall contain a net usable area of [INSERT] square feet of interior space; and
- (c) A parking lot to be constructed or rehabilitated on the Land by Lessor at Lessor’s expense in accordance with the site plan, building plans and specifications identified in **Exhibit** [INSERT], which parking lot (the “Parking Lot”) shall contain spaces for a minimum of [INSERT] vehicles.

The Land, Building and Parking Lot are collectively referred to herein as the “Leased Premises”.

- (d) Lessor herein warrants that it owns the Leased Premises free and clear of all encumbrances except those listed below:

- (e) Lessor Title Reference is as follows: Book [INSERT], Page [INSERT], County Registry of Deeds.

2. **TERM:**

- (a) The term of this Office Lease shall be for [INSERT] years commencing upon written acceptance of the Leased Premises by the Department. Acceptance by the Department shall be in the form set forth in Commencement Notice, **Exhibit** [INSERT], attached hereto and made a part hereof. In the event that commencement occurs after the first day of a month, a partial first month shall be added to the initial term of this Office Lease.

- (b) The Department shall have no obligation to accept the Leased Premises until
 - (i) all construction or renovations have been completed to the satisfaction of the Department; (ii) an unlimited and unrestricted Certificate of Occupancy has been issued by the City of [INSERT]; (iii) receipt of an Architects Certificate of Substantial Completion; (iv) receipt of an asbestos inspection survey; (v) receipt of a Certified Air Balancing Report acceptable to the Department; and (vi) receipt of a Life Cycle Analysis report.
- (c) No later than thirty (30) days prior to the issuance of the Certificate of Occupancy, the Lessor shall notify the Department of the date on which the Lessor anticipates the Certificate of Occupancy will be issued.
- (d) The anticipated date of commencement is [INSERT]. In the event the date of commencement is delayed for any reason, Lessor shall give the Department written notice of such delay no later than thirty (30) days prior to the anticipated date of commencement. The notice shall include the reasons for delay and the new anticipated date of commencement. If the delay in anticipated date of commencement is more than [INSERT] days, the Department may terminate the Office Lease without any obligation to the Lessor.

3. **RENTAL:** The Department shall pay rent as reflected in the chart below:

(a)

Years	Square Feet	Cost Per Square Foot	Annual Rent	Monthly Rent

Rent is payable in arrears, in accordance with the State's usual accounting procedures, commencing with the first month of occupancy as established by the provisions of Section 2.

- (b) In the event commencement occurs after the first day of a month, the first month's rent shall be prorated to the end of that month, payable in arrears; a partial first month shall be added to the initial term of this Office Lease.
4. **RENEWAL:** The Department shall have the option at it's sole discretion to renew this Office Lease for [INSERT] term(s) of [INSERT] years, upon the same terms and conditions, except for rent which shall be negotiated.
5. **HOLDOVER:** At termination of this Office Lease or any renewal thereof, the Department may continue in possession on a month-to-month basis by paying the specified monthly rental until one party shall give the other party written notice of termination. Such notice shall be given sixty (60) days before the premises are to be

vacated. Should the notice specify a termination date prior to the end of a month, the rental shall be prorated to the date specified in the notice.

6. **ASSIGNMENT AND SUBLETTING:** The Department may not assign this lease. The Department may not sublet the Leased Premises without the written consent of the Lessor, which consent shall not be unreasonably withheld; provided, however, the Department, without the consent of the Lessor, may permit another agency of the State of Maine to occupy and use all or a portion of the Leased Premises.

7. **DAMAGE TO LEASED PREMISES:** The Department and Lessor agree that in the event of fire or other damage to the Leased Premises, the party first discovering the damage shall give immediate notice to the other party.

- (a) Repairs: In the event of damage to the Leased Premises that can be repaired within ninety (90) days:
 - (i) Lessor shall thereupon expeditiously, at Lessor's expense and in a good and workmanlike manner, undertake such repairs as are necessary to restore the Leased Premises to its previous condition; and
 - (ii) During the period Lessor is making repairs to the Leased Premises, the rent herein shall be abated in the proportion to the amount of space in the Leased Premises, which is not available to and usable by Department as a result of such loss and/or work.
- (b) Termination: In the event of damage to the Leased Premises that cannot be repaired within ninety (90) days, the Department, at its sole discretion, may terminate the lease without liability to Lessor and without further obligation to make rental payments.

8. **COVENANTS OF THE DEPARTMENT:** The Department agrees that it will:

- (a) Pay rent as set forth in Section 3;
- (b) Use and occupy the Leased Premises in a careful and proper manner;
- (c) Permit the Lessor or its agent upon adequate notice to enter the Leased Premises to inspect the same and to make such repairs as are necessary for the safety, comfort, and preservation of the Leased Premises;
- (d) Not commit nor suffer any waste on the Leased Premises;
- (e) Not permit any other person to carry on therein any offensive trade or business;

- (f) Not use the Leased Premises for any purpose other than for general office purposes;
- (g) Not engage in any hazardous activity on the Leased Premises so as to substantially increase the cost or risk the cancellation of fire, casualty or liability insurance;
- (h) Peaceably quit and deliver up the Leased Premises to the Lessor at the termination of this lease in as good order and condition, reasonable wear, tear, and obsolescence and unavoidable casualties excepted, as they are in at the beginning of the term of this Lease and shall surrender all alterations, additions and improvements, except office furniture, fixtures and equipment put in at the expense of the Department;
- (i) Be responsible for any and all loss or damage caused to any and all personal property of the Department or under the control of the Department located, in, on, or about the Leased Premises, unless the loss or damage is as a result of the negligence or willful acts or omissions of the Lessor or Lessor's officers, agents or employees; and
- (j) Pay for telephone services and cost of electricity used for interior lighting and office equipment, provided it is separately metered.

9. **COVENANTS OF LESSOR:** The Lessor agrees that it will:

- (a) Maintain the Leased Premises, consistent with **Exhibit H**, (including the roof, structural components, exterior of the building, HVAC system and HVAC preventive maintenance) and fixtures in good repair and tenantable condition during the term of this lease and any renewal or any holdover period. Maintenance, repairs, and painting will be done during non-work hours except in an emergency situation or as agreed to by the Department. If the Lessor does not commence repairs within a reasonable period of time (7 calendar days for health & safety matters or 30 days for other Leased Premises repair matters) after notification of the need for repairs or maintenance, the Department may, at its sole discretion, have the repairs made and charge the total repair amount to the account of the Lessor in the form of rent withheld during the next month or months;
- (b) Allow the Department to occupy the Leased Premises peaceably and free from the lawful claims of all other persons during the term of this Office Lease and any renewal or holdover period;
- (c) Pay all charges for electricity and/or fuel used for heating, hot water, air conditioning, ventilation, and exterior lighting used in the Leased Premises;

- (d) Provide and maintain the Leased Premises environment as described in **Exhibit [INSERT]**
- (e) Provide to the Department at the Lessor's expense, and as a condition precedent to commencement of this Lease, a completed LIFE CYCLE ANALYSIS in writing and in a compliance with applicable statute, see (i) and (ii) below. The analysis shall include evidence demonstrating that alternative modifications to lighting systems (or other building or HVAC components that effect the Department's annual costs) have been adequately explored, evaluated and implemented where a lower life cycle cost can be shown to result.
 - (i) New buildings or structures substantially renovated shall be constructed in conformance with the applicable requirements of **Title 10 M.R.S.A. § 1415-D**.
 - (ii) If the area leased is equal to or in excess of ten thousand (10,000) square feet, the Lessor shall submit to the Bureau of General Services, in accordance with Title **5 M.R.S.A. § 1763**, a life cycle analysis of the energy costs associated with the leased property. The analysis shall include evidence demonstrating that alternative modifications to lighting systems (or other building or HVAC components that effect the Department's annual costs) have been adequately explored, evaluated and implemented where a lower life cycle cost can be shown to result.
- (f) Carry the following insurance during the Term of this Office Lease and any renewal term and extension thereof;
 - (i) Workers' compensation insurance, as required by Maine law, covering Lessor and Lessor's employees;
 - (ii) "All Risk" insurance (including, without limitation, fire and extended coverage) on the Leased Premises in an amount equal to the replacement value of the Leased Premises;
 - (iii) General liability insurance, with limits of not less than two million dollars (\$2,000,000) per year and one million dollars (\$1,000,000) per occurrence; provided, however, that Department may specify higher limits, which higher limits shall be procured by Lessor within sixty (60) days after they are specified by the Department. Such general liability insurance (i) shall pertain specifically to the Leased Premises and shall not include other locations owned, leased, operated or maintained by Lessor; (ii) shall include as an additional insured any person undertaking any of Lessor's obligations hereunder; and (iii) shall further include contractual coverage for Lessor's indemnification obligations contained in this Lease;

- (iv) Automobile liability insurance against claims for bodily injury, death or property damage resulting from the maintenance, ownership or use of all owned, nonowned and hired automobiles, trucks and trailers. Minimum acceptable limit is \$1,000,000 of any one accident or loss; and
- (v) All such insurance shall be written by reputable, financially responsible insurance carriers licensed to do business in Maine. At the commencement of the Term, and annually thereafter, Lessor shall have Lessor's insurance carrier(s) furnish Department with certificate(s) evidencing that all insurance required by this Lease has been secured and is being properly maintained. These certificates shall also specify the name(s) of the insurance carrier(s), policy number(s) and expiration date(s). Such policies also shall provide that in the event of cancellation or substantial change prior to expiration or termination of this Lease, Department will be given not less than thirty (30) days prior written notice by certified or registered mail of such cancellation or change. Lessor shall, on request, permit Department to examine original insurance policies;
- (g) Pay all charges for sewer and water services supplied to the Leased Premises;
- (h) Pay all taxes and other assessments on the Leased Premises;
- (i) Meet with the Department's representative as necessary to review and discuss the condition of the Leased Premises, (i.e., escalator, maintenance and janitorial issues);

10. **OTHER COVENANTS:**

The Parties agree:

- (a) The Department may make interior alterations, improvements and attach fixtures in the premises, provided any alterations, improvements, or attachment of fixtures which would affect the structural parts of the building or its heating, plumbing, or electrical systems, shall not be performed by the Department without the prior written consent of the Lessor;
- (b) The Department, with prior written consent of the Lessor, may attach informational signs in or upon the premises, provided attachment of informational signs to the exterior of the premises shall be performed in a workmanlike manner.

11. **COMPATIBLE TENANT:** The Lessor may not lease other space in the building without the written consent of the Department, which consent shall not be unreasonably withheld.

12. **QUIET ENJOYMENT:** Upon payment, by the Department, of the rent herein provided and upon observance and performance of all covenants, terms and conditions on the Department's part to be observed and performed, the Department shall be entitled to the beneficial use and peaceful enjoyment of the premises for the term thereof without hindrance or interruption by Lessor or any other person or persons, regardless of whether they are claiming by, through, or under the Lessor.

13. **STATE HELD HARMLESS:** The Lessor agrees to indemnify, defend and save harmless the State of Maine and the Department, its officers, agents and employees from any and all claims, defense thereof, and losses accruing or resulting to any person due to the negligence or willful acts or omissions of the Lessor.

14. **NON-APPROPRIATIONS:** Notwithstanding any other provisions of this Lease Agreement, if the State of Maine ("State") does not receive sufficient funds to fund this Lease Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the Department is not obligated to make payments under this Lease Agreement. In the event of non-appropriation of funds as described in this section, Department may terminate this Office Lease upon thirty (30) days written notice to the Lessor.

15. **MUNICIPAL ORDINANCES:** The parties acknowledge and agree that, in accordance with **5 M.R.S.A. § 1742-B**, the Leased Premises shall comply with any applicable municipal ordinances governing the construction and alteration of buildings and shall be subject to any applicable inspections.

16. **NOTICES:** Any notices required hereunder shall be in writing and shall be sent certified mail, return receipt requested, addressed to Lessor or Department, as the case may be, at the addresses specified below or at such other address as a party may have specified by written notice hereunder.

Lessor:

Lessor Name

Lessor Address

Lessor Address

Lessor City

Contact Person

Contact Phone

Contact Fax

E-mail address

Department:

Administrative and Financial Services

Bureau of General Services

77 State House Station

Augusta, ME 04333

on behalf of the _____

BGS Contact Name

BGS Contact Phone

BGS Contact Fax

Tenant Agency Contact Name

Tenant Agency Contact Phone

Tenant Agency Contact Fax

E-mail address

17. TERMINATION IN EVENT OF MATERIAL VIOLATION OR DEFAULT:

In the event of a material violation of the terms of this Office Lease by either party, and upon failure of that party to bring itself into compliance with the terms of this lease upon thirty (30) days notice of receipt of the violation by the other party, such other party shall have the right to terminate this lease upon a further thirty (30) days notice. The failure of either party to give notice of a material violation shall in no event constitute a waiver of any of the terms of this lease.

18. ESTOPPEL CERTIFICATES:

- (a) Department shall, within thirty (30) days after a request by Lessor, execute, acknowledge and deliver to Lessor a written statement (i) certifying that the Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications), (ii) specifying the date to which rent has been paid (iii) stating whether, to Department's knowledge, Lessor is in default in performance or observance of its obligations under the Lease, and, if so, specifying each such default, and (iv) stating whether, to Department's knowledge, any event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default by Lessor under the lease, and, if so specifying each such event. Department shall not be obligated to provide such a written statement more than once every six months.
- (b) Lessor shall, within thirty (30) days after a request by Department, execute, acknowledge and deliver to Department a written statement (i) certifying that the Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified, and stating the modifications), (ii) specifying the date to which rent has been paid, (iii) stating whether, to Lessor's knowledge, Department is in default in performance or observance of its obligations under the Lease, and, if so, specifying each such default, and (iv) stating whether, to Lessor's knowledge, any event has occurred which, with the giving of notice or the passage of time, or both, would constitute a default by Department under the Lease, and, if so, specifying each such event. Lessor shall not be obligated to provide such a written statement more than once every six months, unless a modification or event has occurred within the previous 6 months which renders the previous statement no longer accurate.

19. MEMORANDUM OF LEASE:

- (a) This Lease shall not be recorded.
- (b) Lessor agrees to execute a Memorandum of Lease in the form set forth in **Exhibit** [INSERT] and, at its own expense, to record said Memorandum of Lease in the applicable County Registry of Deeds within ten (10) days after Department executes this Office Lease and provide a copy to the Department.

- (c) Lessor further agrees that in the event this Lease is amended, the Lessor shall, at Department's request, execute an amended Memorandum of Lease in a form acceptable to Department and shall record said amended Memorandum of Lease in the applicable County Registry of Deeds within ten (10) days after the Office Lease is amended and provide a copy to the Department.

20. SALE OR TRANSFER OF LEASED PREMISES BY LESSOR:

- (a) Lessor may sell or transfer title to the Leased Premises; provided, however, that any such sale or transfer of title shall be subject to this Lease. Lessor shall give written notice to Department of any such sale or transfer of title within thirty (30) days following any such sale or transfer of title. Such written notice shall include (i) the date of the sale or transfer of title, and (ii) the name and address of the purchaser or transferee. Such written notice shall be accompanied by a written assumption by the purchaser or transferee of the obligations on the part of Lessor under this Lease.
- (b) In the event of any sale or transfer of title to the Leased Premises by the original Lessor or by any successor Lessor, so long as each purchaser or transferee has executed a written assumption of the Lessor's obligations under this Lease, the Lessor shall be relieved of liability arising out of any act, occurrence or omission occurring after the date of such sale or transfer of title, and the Department shall look solely to the successor Lessor for the performance of any such obligation. The Lessor, however, shall remain liable for any act, occurrence or omission occurring prior to the date of such sale.

21. MORTGAGES ON LEASED PREMISES:

- (a) Subject to obtaining the nondisturbance agreement referred to below, in this paragraph, this Lease is and shall be subordinate to any present or future mortgage or mortgages, upon the Leased Premises or any property of which the Leased Premises are a part, irrespective of the time of execution or the time of recording of any such mortgage or mortgages. Department agrees to promptly execute any instrument reasonably requested by the holder of any such mortgage evidencing such subordination. Any such subordination shall be conditioned upon Lessor obtaining and delivering to Department a written agreement by such holder in recordable form and otherwise satisfactory to the Department providing that in the event of foreclosure or other action taken under the mortgage by the holder thereof, this Lease and the rights of Department hereunder shall not be disturbed but shall continue in full force and effect so long as Department shall not be in default hereunder. The word "mortgage" as used herein includes mortgages, deeds of trust or other similar instruments, and all modifications, extensions, renewals and replacements thereof, and advances thereunder.
- (b) Department agrees that if any holder of a mortgage obtains title to the Leased Premises as a result of any enforcement or foreclosure of a mortgage,

Department will, upon request of such mortgagee, attorn to such mortgage and recognize such mortgagee as its Lessor under all the terms and provisions of this Lease. Any attornment pursuant to this Section 21(b). shall occur automatically, but Department agrees upon request by Lessor or any such mortgagee, without cost to the Department to execute and deliver any instruments reasonably requested to evidence such attornment.

- (c) With reference to any assignment by Lessor of Lessor's interest in this Lease, or the rents payable hereunder, (conditional in nature or otherwise) which assignment is made to the holder of a mortgage on the Leased Premises, Department agrees that the execution thereof by Lessor, and the acceptance thereof by such holder, shall not be deemed an assumption by such holder of any of the obligations of Lessor hereunder, unless such holder shall, by written notice to Department, assume such obligation and that, absent such assumption, Department shall continue to look to Lessor for the performance of Lessor's obligations hereunder; provided, however, such holder shall be deemed to have assumed Lessor's obligations hereunder upon coming into possession of the Leased Premises by statutory foreclosure, by deed in lieu of foreclosure, default, or operation of law, or the taking of possession of the Leased Premises by such holder as a mortgagee in possession. The appointment of a receiver at the request of such holder shall not be deemed to be taking possession by such holder.

22. **LAW GOVERNING:** This lease shall be governed by and construed in accordance with the laws of the State of Maine.

23. **SEVERABILITY:** The parties agree that if any provision of this lease is held to be invalid or unenforceable as applied to any person, party or circumstance, that such shall not in any way be construed to affect the validity or enforceability of the remaining provisions, as may be applied in any other circumstance or to any other person or party.

24. **INTERPRETATION:** The parties agree that no claim under this lease, or any defense to a claim, shall be based on the principle that any term or provision in the lease is ambiguous and should be construed against the drafter of the lease. The parties hereby acknowledge that they have consulted with counsel, or have had the opportunity to consult with counsel, prior to execution of the lease.

25. **WAIVER:** Payment of rent or sums due as additional rent hereunder, by the Department, with knowledge of breach by Lessor of the terms and conditions of this Office Lease shall not be deemed to be a waiver of any obligations of Lessor under the Office Lease. Failure of Department to complain of any act or omission on the part of the Lessor, no matter how long such may continue, shall not be deemed to be a waiver by Department of any of its rights. No waiver, express or implied, by Department at any time shall be deemed a waiver of a breach of any other provision, clause, item, section or subsection of this Office Lease or a consent to any subsequent breach of the same or any other provision, clause, item, section or subsection.

26. **BANKRUPTCY AND INSOLVENCY:** If Lessor's leasehold estate shall be taken in execution, or by other process of law, or if any receiver or trustee shall be appointed for the business and property of Lessor, and if such execution or other process, receivership or trusteeship shall not be discharged or ordered removed within sixty (60) days after the Lessor shall receive actual notice thereof, or if Lessor shall be adjudicated a bankrupt, or if Lessor shall make a general assignment of its leasehold estate for the benefit of creditors, then in any such event, Department may terminate this lease by giving notice thereof to Lessor.

27. **CONDITIONS:** Notwithstanding any other conditions in this agreement, it is hereby understood that this lease shall become effective and occupancy of the premises will occur only when and if there is mutual agreement that the necessary construction or renovations have been completed to the mutual satisfaction of both the Department and the Lessor and that the premises are ready to be occupied. The rental shall begin as of the date of mutual acceptance of the premises.

28. **TOTALITY OF AGREEMENT:** This Lease (together with the exhibits attached hereto) contains the entire agreement between the parties, and no changes or modifications to the terms hereof shall be valid unless in writing and signed by all parties.

[THIS SPACE LEFT BLANK INTENTIONALLY]

In WITNESS WHEREOF, this lease has been duly executed by the parties hereto as of the day and year first above written.

LESSOR

Owner/Agent

Date

Then personally appeared the above named _____ whose title is _____ and acknowledged the foregoing instrument to be his/her free act and deed.

Notary Public

Date

My Commission Expires

DEPARTMENT of _____

Department's Agent

Date

Then personally appeared the above named _____ whose title is _____ and acknowledged the foregoing instrument to be his/her free act and deed.

Notary Public

Date

My Commission Expires

**DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF GENERAL SERVICES**

John C. Conrad

Date

Then personally appeared the above named John C. Conrad, Director of Leased Space and acknowledged the foregoing instrument to be his free act and deed.

Notary Public

Date

My Commission Expires

Approved by: _____

Elaine L. Clark

Date